

# MARSHALL UNIVERSITY BOARD OF GOVERNORS POLICY

## Policy No. GA- 15

### ANIMALS ON CAMPUS

#### 1 General Information:

- 1.1 Scope: This policy establishes the restrictions of pets and other animals on campus in order to provide a safe and a healthful environment for member of the campus community to study, work, and live.
- 1.2 Passage Date: June 25, 2014
- 1.3 Effective Date: July 29, 2014
- 1.4 References: Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Fair Housing Act, Section 507 of the Codified Ordinances of the City of Huntington, West Virginia.
- 1.5 Background: Replaces MUBOG Policy GA-15 Animals on Campus, effective April 30, 2009, to include assistances animals that may be used by individuals with disabilities on campus.

#### 2 Definitions:

- 2.1 Pets. Any animal kept for ordinary use and companionship. Assistance animals (service and support animals), as defined below, are not considered pets.
- 2.2 Assistance Animals. The term "assistance animal" is the overarching term that refers to both service animals as well as support animals as defined below. Therefore, an assistance animal is an animal that either: (1) works, provides assistance, or performs tasks for the benefit of a person with a disability; or (2) provides emotional or other type of support that alleviates one or more identified symptoms or effects of a person's disability.
  - 2.2.1 Service Animal. Any dog that is individually trained to do work or perform tasks for the benefit of a person with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by a service animal must be directly related to the person's disability. The provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for the purpose of this definition. Species other than dogs or, in some cases, miniature horses, are not considered service animals for the purpose of this definition of a service animal.
  - 2.2.2 Support Animals. An animal that provides emotional or other support that ameliorates one or more identified symptoms or effects of a person's disability. Unlike service animals, support animals are not required to be trained to perform work or tasks, and they include species other than dogs and miniature horses.
- 2.3 Director of Disability Services. The individual designated by the Chief Student Affairs Officer to manage and oversee the provision of disability services at Marshall University.
- 2.4 Domestic Animal. Any bird, reptile, feline or any other mammal kept as a pet.
- 2.5 Dog Owner. Anyone who brings a dog on campus.
- 2.6 Dog. A domesticated dog.
- 2.7 University Housing. shall refer to any university buildings and grounds owned, leased, operated, controlled, or supervised by the department of Housing and Residence Life, including, but is not limited to, residence halls, offices, work areas, or stairwells.

### **3 Animals on Campus, in Work Areas, and in Buildings:**

#### **3.1 Pets**

- 3.1.1 Pets, with the exception of fish in University Housing, are not permitted in any building at any time, without prior authorization.
- 3.1.2 No domestic animal, as defined herein, other than a dog may be on university grounds at any time.
- 3.1.3 Dogs are permitted outdoors on university property at all times, subject to the following requirements.
  - 3.1.3.1 Whenever a dog is on the university's campus in accordance with this policy, the dog must be kept on a leash and under the control and possession of the owner at all times. The dog owner is responsible for caring for the dog, ensuring the safe and responsible behavior of the dog, and preventing the dog from chasing wildlife on campus.
  - 3.1.3.2 The dog owner is also responsible for cleaning up and properly disposing of waste the dog leaves in outdoor areas of campus.
  - 3.1.3.3 No person shall bring, at any time, a dog, including an assistance animal, onto university owned or controlled property unless the dog has current immunization against disease, including rabies, distemper and parvovirus. All dogs must wear a rabies vaccination tag.

#### **3.2 Service Animals**

- 3.2.1 Service animals will be permitted to accompany people with disabilities, in accordance with section 2.1.3.3 herein, in all areas of Marshall University's facilities, including University Housing, where employees, faculty, staff, students, members of the public, and other participants in services, programs or activities are allowed to go.
- 3.2.2 Marshall University does not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.
- 3.2.3 Individuals accompanied by a service animal on campus but who do not need any disability-related accommodations are not required to register with the Office of Disability Services (ODS) (students) or Human Resource Services (employees), as may be applicable, nor is such individual required to submit a request for a reasonable accommodation to receive access of his or her service animal.
  - 3.2.3.1 Additionally, Marshall University cannot ask about the nature or extent of a person's disability to determine whether a person's animal qualifies as a service animal.
  - 3.2.3.2 However, when it is not readily apparent that a dog is a service animal, Marshall University staff may make two inquiries to determine whether the dog qualifies as a service animal, which are:
    - 3.2.3.2.1 Is the dog required because of a disability?
    - 3.2.3.2.2 What work or task has the dog been trained to perform?
- 3.2.4 A service animal must be housebroken (i.e., trained so that it controls its waste elimination, absent illness or accident) and must be kept under control by a harness, leash, or other tether, unless the person is unable to hold those, or such use would interfere with the service animal's performance of work or tasks. In such instances, the service animal must be kept under control by voice, signals, or other effective means.

3.2.5 Marshall University will assess requests for the use of miniature horses by people with disabilities on a case-by-case basis. Requests should be submitted to the Office of Disability Services and, consistent with applicable laws, Marshall University may make modifications in its policies to permit their use if they meet certain criteria and have been individually trained to do work or perform tasks for the benefit of people with disabilities.

### 3.3 Support Animals in University Housing

3.3.1 Support animals are generally not allowed to accompany persons with disabilities in all public areas of Marshall University as a service animal is allowed to do, but a support animal may reside in University Housing, including accompanying such individual in all public or common use areas of University Housing, when it may be necessary to afford the person with a disability an equal opportunity to use and enjoy University Housing.

3.3.2 Before a support animal can move into University Housing with a person with a disability, a request must be submitted to Marshall University's Office of Disability Services and approval must be granted (preferably at least 30 days prior to move in). If the disability is not obvious, the ODS will require documentation from a licensed physician or mental health provider, including without limitation a qualified psychiatrist, social worker, or other mental health professional, to provide sufficient information for Marshall University to determine:

3.3.2.1 that the individual qualifies as a person with a disability (i.e., has a physical or mental impairment that substantially limits one or more major life activities); and

3.3.2.2 that the support animal is necessary to afford the person with a disability an equal opportunity to use and enjoy University Housing (i.e. that the animal would provide emotional support or other assistance that would ameliorate one or more symptoms or effects of the disability).

3.3.2.3 A request for an accommodation to have a support animal must be made with each application for University Housing.

### 3.4 Support Animals in other areas of Campus

3.4.1 While support animals are generally not allowed indoors on Marshall University 's campus other than in University Housing, people with disabilities may request approval to have the support animal accompany them to other campus areas. Such requests will be considered on a case-by-case basis consistent with applicable laws and should be made to the following:

3.4.1.1 Students should make requests for approval of the support animal to be permitted in other campus areas to the Office of Disability Services. Approval must be requested each semester for the support animal to be allowed indoors in areas outside of University Housing.

3.4.1.2 Employees should make requests for approval of the support animal to be permitted in other campus areas to Human Resources Services.

3.4.1.3 Support animals are not permitted in any dining facility on the Marshall campus.

## **4 Responsibilities Of People With Disabilities Using Assistance Animals:**

4.1 University is not responsible for the care or supervision of assistance animals. People with disabilities are responsible for the cost, care, and supervision of assistance animals, including:

- 4.1.1 Compliance with any laws pertaining to animal licensing, vaccination, and owner identification, including, where applicable, immunization against rabies, distemper and parvovirus. All dogs must wear a rabies vaccination tag.
- 4.1.2 Keeping the animal under control and taking effective action when it is out of control; and
- 4.1.3 Feeding and walking the animal, and disposing of its waste.
- 4.1.4 There may also be additional requirements, as determined by the department of Housing and Residence Life, for animals residing in University Housing for protection, safety and welfare of other students.
- 4.2 Marshall University will not require any surcharges or fees for assistance animals. However, a person with a disability may be charged for damage caused by an assistance animal to the same extent that Marshall University would normally charge a person for the damage they cause.
- 4.3 People with disabilities who are accompanied by assistance animals must comply with the same university rules regarding noise, safety, disruption, and cleanliness as people without disabilities.
- 4.4 Failure to comply with any aspect of this policy may result in disciplinary action.

## **5 Exceptions and Exclusions:**

- 5.1 Marshall University may pose some restrictions on, and may even exclude, an assistance animal in certain instances. As noted above, support animals are generally not allowed indoors on Marshall University 's campus other than in University Housing. Persons with disabilities may request approval to have the support animal accompany them to other campus areas as a reasonable accommodation. Such requests will be considered on a case-by-case basis consistent with applicable laws and should be made to the following:
  - 5.1.1 Students should make requests for approval of the support animal to be permitted in other campus areas to the Office of Disability Services.
  - 5.1.2 Employees should make requests for approval of the support animal to be permitted in other campus areas to Human Resources Services.
- 5.2 Any animal may be excluded from an area in which it was previously authorized to be in only if:
  - 5.2.1 It is out of control and effective action is not taken to control it;
  - 5.2.2 It is not housebroken (or in the case of a support animal that deposits waste in a designated cage or litter box, the owner fails to clean such cage or box such that the cleanliness of the room or area is not maintained); or
  - 5.2.3 It poses a direct threat to the health or safety of others that cannot be mitigated by reasonable modifications of policies, practices, or procedures, or the provision of auxiliary aids or services.
  - 5.2.4 It acts in a dangerous or aggressive manner toward people or other animals.
- 5.3 In considering whether an assistance animal poses a direct threat to the health or safety of others, Marshall University will make an individualized assessment, based on reasonable judgment, current medical knowledge, or the best available objective evidence, to determine:
  - 5.3.1 The nature, duration, and severity of the risk;
  - 5.3.2 The probability that the potential injury will actually occur; and
  - 5.3.3 Whether reasonable modifications of policies, practices, procedures, or the provision of auxiliary aids or services, will mitigate the risk.

- 5.4 The Director of the Office of Disability Services shall provide a written statement of explanation to any student with a disability if a determination is made that the presence of that person's assistance animal would fundamentally alter the nature of a program, service, or activity.
- 5.5 In the event that restriction or removal of an assistance animal is determined to be necessary, the person with a disability will still be given the opportunity to participate in the service, program, or activity without having the assistance animal present.
- 5.6 As noted above, support animals are generally not allowed indoors on Marshall University's campus other than in University Housing. Persons with disabilities may request approval to have the emotional support animal accompany them to other campus areas as a reasonable accommodation. Such requests will be considered on a case-by-case basis consistent with applicable laws and should be made to the following:
  - 5.6.1 Students should make requests for approval of the support animal to be permitted in other campus areas to the Office of Disability Services.
  - 5.6.2 Employees should make requests for approval of the support animal to be permitted in other campus areas to Human Resources Services.
- 5.7 Special Exceptions for Educational or other purposes
  - 5.7.1 Educational Exception
    - 5.7.1.1 Animals being maintained or housed on campus for research purposes are exempted from this policy.
    - 5.7.1.2 Animals may be used as part of the instruction in a classroom or other setting with the approval of the faculty member the Director of Public Safety, provided that:
      - 5.7.1.2.1 It is for a very limited duration,
      - 5.7.1.2.2 It is for a specific purpose, and
      - 5.7.1.2.3 The individual bringing the animal on campus abides by any requirements mandated by the faculty member or the Director of Public Safety.
      - 5.7.1.2.4 Such requests will be considered on a case-by-case basis.
  - 5.7.2 Other purposes
    - 5.7.2.1 Individuals or groups desiring to bring animals on campus for any purpose not otherwise covered by this policy must obtain advance approval from the Director of Public Safety. Such requests will be considered on a case by case basis.
    - 5.7.2.2 Failure to obtain advance approval may cause the immediate removal of the animal(s) from campus.

## **6 Guidelines for the Marshall University Community:**

- 6.1 To ensure equal access and nondiscrimination of people with disabilities, members of the Marshall University must abide by the following practices:
  - 6.1.1 Allow service animals to accompany people with disabilities on campus;
  - 6.1.2 Do not ask for details about a person's disability(ies);
  - 6.1.3 Do not pet an assistance animal, as it distracts the animal from its work;
  - 6.1.4 Do not feed an assistance animal;
  - 6.1.5 Do not deliberately startle, tease, or taunt an assistance animal; and

- 6.1.6 Do not separate or attempt to separate a person from his/her assistance animal.
- 6.2 If you have a disability that may be affected by the presence of animals, please contact the Office of Disability Services. Marshall University is committed to ensuring that the needs of all people with disabilities are met and will determine how to resolve any conflicts or problems as expeditiously as possible.

## **7 Student Appeal Process:**

### **7.1 Informal Appeals**

- 7.1.1 Prior to initiating a formal appeal (listed below), the student should contact the Chief Student Affairs Officer to discuss his or her concerns about the denied accommodation.
- 7.1.2 The Chief Student Affairs Officer has the responsibility to consider the student's request and respond to the student's concerns in a timely manner.
- 7.1.3 The student has the responsibility to identify to the Chief Student Affairs Officer of the nature of his or her appeal (failure of judgment, failure of process, or failure of information) and to explain why he or she believes the determination made by the Office of Disability Services was erroneous in nature.
- 7.1.4 The Chief Student Affairs Officer has the responsibility to carefully consider the points made by the student, and in writing, inform the student of any changes based on the discussion.
- 7.1.5 The Chief Student Affairs Officer may award, modify, or uphold the denial of accommodation based on the appeal, but, must clearly explain the reasoning behind the denial for the student.

### **7.2 Formal Appeals**

- 7.2.1 If the student remains unsatisfied after an informal appeal has been sought out, he or she may make a formal appeal through the office of the Provost.
- 7.2.2 In order to file a formal appeal with the office of the Provost, the student must provide a written request for an appeal based on his or her belief of the Office of Disability Services' failure to accommodate based on either judgment or process, (not based on a lack of information).
- 7.2.3 The office of the Provost will review the request and meet with the student in a timely manner to discuss the appeal.
- 7.2.4 The office of the Provost may award, modify, or uphold the denial of accommodation based on the appeal, but, must clearly explain the reasoning behind the denial for the student. The decision of the Provost is final.

## **8 Grievance Procedure:**

- 8.1 A student or employee who wishes to file a disability discrimination complaint should contact the Office of Equity Programs at 304-696-2537. The website for the Office of Equity and Compliance is at <http://www.marshall.edu/eoaa/>.
- 8.2 Students with concerns about potential discrimination may also contact the United States Department of Education, Office for Civil Rights, the United States Department of Housing and Urban Development by phone at (800)-877-0246, or on the web at <http://www.hud.gov/complaints/> (and click on "Housing Discrimination"); or the United States Department of Justice, Disability Rights Section by email at [ADA.complaint@usdoj.gov](mailto:ADA.complaint@usdoj.gov), or on the web at <http://www.ada.gov>.